

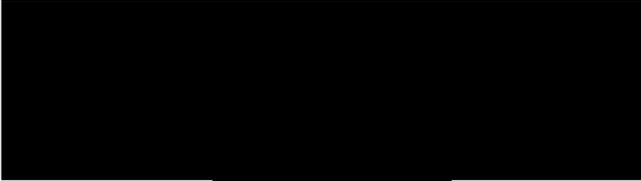
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U.S. Citizenship  
and Immigration  
Services

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FILE:



[EAC 01 202 51256]

OFFICE: VERMONT SERVICE CENTER

DATE: **MAY 09 2006**

IN RE:

Applicant:



APPLICATION:

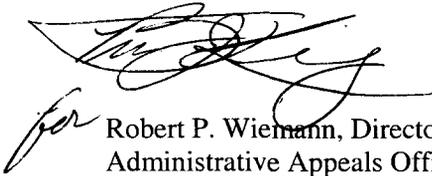
Application for Temporary Protected Status under Section 244 of the Immigration and Nationality Act, 8 U.S.C. § 1254

ON BEHALF OF APPLICANT:

Self-represented

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
for Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The application was denied by the Director, Vermont Service Center, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The applicant is a native and citizen of El Salvador who is seeking Temporary Protected Status (TPS) under section 244 of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1254.

The director denied the application because the applicant had failed to respond to a request to submit evidence to establish that he had continuously resided in the United States since February 13, 2001, and had been continuously physically present from March 9, 2001, to the date of filing the application.

On appeal, the applicant submits additional evidence.

Section 244(c) of the Act, and the related regulations in 8 C.F.R. § 244.2, provide that an alien who is a national of a foreign state designated by the Attorney General is eligible for temporary protected status only if such alien establishes that he or she:

- (a) Is a national, as defined in section 101(a)(21) of the Act, of a foreign state designated under section 244(b) of the Act;
- (b) Has been continuously physically present in the United States since the effective date of the most recent designation of that foreign state;
- (c) Has continuously resided in the United States since such date as the Attorney General may designate;
- (d) Is admissible as an immigrant except as provided under § 244.3;
- (e) Is not ineligible under 8 C.F.R. § 244.4; and
- (f)
  - (1) Registers for TPS during the initial registration period announced by public notice in the *Federal Register*, or
  - (2) During any subsequent extension of such designation if at the time of the initial registration period:
    - (i) The applicant is a nonimmigrant or has been granted voluntary departure status or any relief from removal;
    - (ii) The applicant has an application for change of status, adjustment of status, asylum, voluntary departure, or any relief from removal which is pending or subject to further review or appeal;
    - (iii) The applicant is a parolee or has a pending request for reparole; or
    - (iv) The applicant is a spouse or child of an alien currently eligible to be a TPS registrant.

The term *continuously resided*, as defined in 8 C.F.R. § 244.1, means residing in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous residence in the United States by reason of a brief, casual, and innocent absence as defined within this section or due merely to a brief temporary trip abroad required by emergency or extenuating circumstances outside the control of the alien.

The term *continuously physically present*, as defined in 8 C.F.R. § 244.1, means actual physical presence in the United States for the entire period specified in the regulations. An alien shall not be considered to have failed to maintain continuous physical presence in the United States by virtue of brief, casual, and innocent absences as defined within this section.

Persons applying for TPS offered to El Salvadorans must demonstrate that they have continuously resided in the United States since February 13, 2001, and that they have been continuously physically present in the United States since March 9, 2001. On July 9, 2002, the Attorney General announced an extension of the TPS designation until September 9, 2003. Subsequent extensions of the TPS designation have been granted, with the latest extension valid until September 9, 2006, upon the applicant's re-registration during the requisite time period.

The burden of proof is upon the applicant to establish that he or she meets the above requirements. Applicants shall submit all documentation as required in the instructions or requested by Citizenship and Immigration Services (CIS). 8 C.F.R. § 244.9(a). The sufficiency of all evidence will be judged according to its relevancy, consistency, credibility, and probative value. To meet his or her burden of proof, the applicant must provide supporting documentary evidence of eligibility apart from his or her own statements. 8 C.F.R. § 244.9(b).

The record shows that the applicant filed his initial TPS application on May 24, 2001. The record further shows that the director originally denied the application on March 7, 2003, after determining that the applicant had abandoned his application by failing to respond to a request for evidence. The notice was returned by the Postal Service on March 18, 2003, as undeliverable. On March 23, 2004, a notice of intent to deny was mailed to the applicant at his new address. He was requested to submit evidence to establish continuous residence in the United States since February 13, 2001, and continuous physical presence from March 9, 2001, to the date of filing the application. The applicant failed to respond; therefore, the director denied the application on July 15, 2004.

On appeal, the applicant submits:

1. Copies of [REDACTED] billing statements dated April 5, 1998 and November 10, 1998.
2. A copy of a rent receipt dated January 1, 2001.
3. A copy of [REDACTED] bill for period March 21 to April 20, 2001.
4. A copy of a receipt for "cash tendered" at [REDACTED] Check Cashing dated May 14, 2001.
5. Copies of pay statements from [REDACTED] dated July 3, 2001; August 28, 2001; December 24, 2003; and March 23, 2004; and copies of W-2 Wage and Tax Statements for 2001 and 2003.
6. Copies of Form 1040, Income Tax Return, and Form 1, Massachusetts Resident Income Tax Return, for the tax years 2001 and 2003.

7. Copies of his Employment Authorization Cards; a Social Security Card; Visa Cards with expiration dates of December 2004 and April 2008; and a State of Massachusetts Identification Card with an expiration date of June 4, 2008.

The rent receipt (No. 1 above) is generic and has little evidentiary value. The receipt was signed by [REDACTED] (last name unreadable) and a telephone number was not listed for verification. Furthermore, the applicant failed to submit supporting evidence, such as a copy of a rental agreement or a notarized affidavit from his landlord. The name of the applicant is not shown on the receipt from [REDACTED] Check Cashing (No. 4 above); therefore, it is not acceptable.

Documentation furnished by the applicant indicates that the applicant was present in the United States in 1998. However, no credible supporting documentation was furnished to establish continuous residence in the United States since February 13, 2001. The remaining documents only establish the applicant's continuous physical presence since March 21, 2001.

The applicant has failed to establish that he has met the criteria for continuous residence since February 13, 2001, as described in 8 C.F.R. § 244.2(c). Consequently, the director's decision to deny the application will be affirmed.

An alien applying for temporary protected status has the burden of proving that he or she meets the requirements enumerated above and is otherwise eligible under the provisions of section 244 of the Act. The applicant has failed to meet this burden.

**ORDER:** The appeal is dismissed.